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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CHRIS DAVENPORT,

Plaintiff,

v.

RECONTRUST COMPANY, N.A., et  
al.,

Defendants.

2:11-CV-1295 JCM (RJJ)

**ORDER**

Presently before the court is defendant Recontrust Company's motion to dismiss the case for failure to state a claim and expunge *lis pendens*. (Doc. #6). To date, the response deadline has passed, and no response has been filed.

Pursuant to Local Rule 7-2(b), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

The plaintiff has filed three nearly identical lawsuits in the past year. The first suit was filed

1 on August 25, 2010, in Clark County district court. That action was subsequently removed to the  
2 United States District Court for the District of Nevada and assigned to Judge Pro. On March 28,  
3 2011, Judge Pro dismissed the action

4 The instant complaint contains no new allegations. Accordingly, the plaintiff's claims are  
5 barred by *res judicata* because each of the events at issue in this case took place prior to the  
6 plaintiff's original lawsuit, and any claims pertaining thereto could have been raised in those  
7 proceedings. In light of the plaintiff's failure to respond and weighing the factors identified in  
8 *Ghazali*, the court finds dismissal appropriate.

9 Accordingly,

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant's motion to  
11 dismiss (doc. #6) be, and the same hereby is, GRANTED.

12 IT IS FURTHER ORDERED, that plaintiff's motion for preliminary injunction (doc. #1-1)  
13 be, and the same hereby is, DENIED.

14 DATED September 14, 2011.

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17 **UNITED STATES DISTRICT JUDGE**